

Abstract

The Role of the Court of Appeal from 1548 to 1783

The purpose of this thesis is to analyse the development of the Court of Appeal in Prague between the years 1548 and 1783. The thesis describes the role of one the most important tribunals in the Czech Lands during the Early Modern Age. The reason for my research is that this issue has not been elaborated complexly by modern historians. The aim of the thesis is to complete and revise results of former researches in this area.

The thesis is composed of an introductory, ten chapters and conclusions. Some chapters are subdivided into parts. The introduction defines the topic, describes existing literature and other materials. The investigation is based both on published and archival documents. The last ones were examined in the National Archives and chosen regional archives.

Chapter One examines why the Court of Appeal was established, specifies its legal framework and describes members of the Court. The Court was established in January 1548 by Czech King Ferdinand I Habsburg (1526–1564) in order to restrict the power of royal towns in the Czech Lands after the sovereign suppressed the revolt of the Estates in 1547. The judges of the Court of Appeal were representatives of all Estates in Bohemia (high nobility, gentry, burgesses) and four erudite lawyers. The court was presided by the president.

Chapter Two analyzes the competence of the new royal institution. The Court of Appeal was empowered to hear appeals from municipal courts and it provided learnings and blind judgment. Its territorial scope covered Bohemia, Moravia, Silesia, Lower and Upper

Lusatia. The last part of the chapter deals with an enforcement of its competence in Moravia.

Chapter Three documents with examples the first year when the Court was active. It compares the number of appeals in this year with subsequent years. In this way it shows how the appellate agenda was developed between 1548 and 1618.

Chapter Four focuses on municipal law which the Court of Appeal applied in judicial practice. A selection of a particular law depended on the law what a municipal court used in the first instance. At the time of establishment of the Court of Appeal two main law areas were distinguished in Bohemia. After 1579 the Court of Appeal played an important role in the process of a unification municipal law.

Chapter Five characterises stages of appellate proceedings and review proceedings. It is concerned with procedural rules contained in the Municipal Code and the Instruction of Ferdinand I (1548). It compares them with the decision-making of the Appellate Court. It provides an outline of relevant case law in procedural issues which supplemented and modified rules in some cases.

Chapter Six concentrates on problem resulting from missing records of appellate decisions during the Czech Estates Rebellion and the following year and a half (from May of 1618 to May of 1622). It shows, based on archival sources, although decision-making of the Court was then suspended, administrative tasks were carried out.

Chapter Seven deals with rules contained in three laws published between 1627 and 1640. The Land Law (1627) extended competence of the Court in criminal matters, its amendments (1640) regulated review proceedings and the rescript of Ferdinand II (1628) established new conditions for the function of appellate judges.

Chapter Eight describes a reform of the Court made in 1644 by Emperor Ferdinand III. His instruction regulated staffing of the office, its existing and new competences, working hours, court fees, penalties

and, in primarily, procedural details not yet been adapted. The Court of Appeal became a supervisory authority over trial courts. In criminal matters, it oversaw the execution of a capital justice. It also gained supervisory powers in the field of civil law and municipal justice.

Chapter Nine is addressed to the issue of Czech extraterritorial fiefs. In 1651 the Court of Appeal took over a full agenda of these fiefs, at which it had participated in various forms since the second half of 16th century. It performed administrative and judicial function in these matters.

Chapter Ten describes legislative changes relating to Court in 1651–1783. Considerable changes occurred for the Court in connection with the criminal codes of Joseph I (1707) and Maria Theresa (1768), which extended its competence in the field of criminal proceedings. This chapter explores the role of the Court in the process of granting pardons and its wide powers in criminal proceedings, including investigation, decision-making, approval of decisions and supervision of criminal courts. The chapter mentions the stamp duty and the measures to prevent delays in proceeding as well.

Conclusions generalizes the result of research. In the initial phase (1548–1627) the Court of Appeal was an appellate instance from municipal courts. The period after the year 1627 meant an extension of its competence in the criminal area, especially after criminal codes of Joseph I and Maria Theresa. From the mid-18th century, its territorial competence was limited to Bohemia.

Klíčová slova – Keywords

právní dějiny – soudnictví – apelace

law history – judiciary – appeal